



Statement of Evidence

Amendment C367
Greater Geelong Planning Scheme
Mollers Lane, Leopold

A proposed rezoning of land to
facilitate conventional residential use
and development

23 November 2018

Prepared by

Amanda K Ring
SJB Planning
L1 / 80 Dorcas Street
SOUTHBANK VIC 3006
www.sjb.com.au

Table of Contents



	Executive Summary	6
1.0	Introductory Remarks	7
1.1	Name, qualifications and experience	7
1.2	Instructions	7
1.3	Facts, matters and assumptions	8
1.4	Summary of opinions	10
2.0	The affected land and surrounding land	11
2.1	Where is the affected land?	11
2.1.1	What is the affected land?	11
2.1.2	Land at 10 Willows Place	13
2.2	The surrounding land	13
2.2.1	North	13
2.2.2	North-west	13
2.2.3	West	13
2.2.4	South and East	13
3.0	The planning proposal	14
3.1	The amendment	14
3.2	The planning permit	14
3.3	Draft s173 Agreement	15
4.0	Assessment of the proposal	16
4.1	Strategic considerations	16
4.1.1	A sound strategic basis	16
4.1.2	The City of Greater Geelong Settlement Strategy	17
4.1.3	Compatibility with the Planning Policy Framework	17
4.2	The amendment	20
4.2.1	A change of zone	20
4.2.2	Contracting the extent of Significant Landscape Overlay - Schedule 10	21
4.2.3	Creating a new Schedule 43 to the Design and Development Overlay	22
4.2.4	A change to local policy at Clause 22.14 - The Bellarine Peninsula	23
4.3	The subdivision proposal	25
4.3.1	Clause 56	25
4.3.2	Permit and conditions	26
4.3.3	The draft s173 Agreement	27

Table of Contents

5.0	Referral Responses and Submissions	28
5.1	Responses from Statutory Authorities	28
5.2	Submissions	28

6.0	Conclusions	29
-----	-------------	----

List of Figures

Figure 1 – Extent of land affected by the amendment (base plan extract from www.land.vic.gov.au)

Executive Summary

This report addresses a proposed amendment to the Greater Geelong Planning Scheme – Amendment C367 - and a related application for a planning permit. The rezoning of the subject land, in Leopold, and the related permit will, together, facilitate conventional residential development of the land with a view to accommodating faster than expected population growth evident in the Geelong region and, in the Bellarine Peninsula, more specifically.

The purpose of this report is to assist the Panel considering submissions about the amendment and the related permit application. It considers the strategic basis for the amendment and does this in the context of relevant strategic and technical research and investigations, most notably, the *G21 Regional Growth Plan* (Geelong Regional Alliance 2013), the *Bellarine Localised Planning Statement*, the *Leopold Structure Plan* (September 2011 and amended in January 2013) and the *South East Leopold Framework Plan* (2016) - both prepared by the City of Geelong.

The report describes the amendment and the permit application and outlines the planning policy framework relevant to the proposal. It also addresses the planning merits of the amendment and application and concludes that the combination of the amendment and the permit application represents an appropriate planning outcome which has appropriately taken account of the subject land's strategic, natural and cultural setting.

1.0 Introductory Remarks

1.1 Name, qualifications and experience

My name is Amanda Ring and I am a Director of SJB Planning, which conducts business from premises located at 80 Dorcas Street, Southbank.

I hold a Bachelor of Town and Regional Planning obtained from the University of Melbourne and have been practising as a Town Planner since 1986.

I have an employment history that includes positions with the former Shire of Melton, the City of Melbourne, the former Ministry of Planning and the Historic Buildings Council. I have been a practising planning consultant since 1991, advising public sector and private clients on a wide range of planning and development matters.

My area of expertise is urban and regional planning and heritage planning.

I have no private relationship with the proponent of the amendment / the permit applicant.

I have been engaged to prepare this report for an agreed fee.

1.2 Instructions

In mid-July 2018, I was approached by Minter Ellison, on behalf of:

- Mollers Lane Developments Pty Ltd (which owns, or has entered into contracts to purchase, land at 2-20, 22-30 and 42-90 Mollers Lane, Leopold); and
- Pamas Property Pty Ltd (which owns land at 92-120 Mollers Lane)

to review a range of material relating to Amendment C367 to the Greater Geelong Planning Scheme and a related Section 96A application for a planning permit, with a view to providing expert evidence at a Panel Hearing in due course. This approach was made in an email to me dated 16 July 2018.

After reviewing the material, I inspected the area in early October 2018 and thereafter concluded that the planned rezoning of the land to enable conventional residential subdivision has a sound strategic basis and, further, that the permit proposed to facilitate and ensure appropriate subdivision of the land was generally in order.

After verbal confirmation that I was satisfied of the merit of the planning proposal being put to a Panel for consideration, I was provided with further written instructions. These instructions, in summary, requested that I undertake a high level, strategic assessment of the proposal noting that a number key matters raised in submissions, and of a more detailed nature, would be addressed by other professionals with specialised skills in traffic planning and management, drainage and visual assessment.

1.3 Facts, matters and assumptions

In preparing this Statement of Evidence I have:

- Reviewed and considered all Amendment C367 documents as exhibited.
- Reviewed, considered and relied on supporting documents including:
 - The proponent's request for an amendment and permit dated 29 January 2018;
 - A planning submission in support of the amendment prepared by TGM Group (January 2018) and a related Clause 56 – Residential Subdivision Assessment. The planning submission, inter alia, included an Overall Development Plan, a Catchment Plan, an Integration Plan, a Lot Density and Diversity Plan and an Open Space Plan, all prepared by the TGM Group (the Subdivision Plans).
 - A Traffic Impact Assessment Report prepared by ESR Transport Planning (21 January 2018);
 - A Lake Connewarre Impact Assessment – Final Report prepared by Venant Solutions (3 February 2017);
 - Seven Landscape Master Plans (the Landscape Plans) prepared by Mexted Rimmer Associates (all dated 23.01.2018);
 - A Site Stormwater Management Plan and Flood Impact Assessment – Revision 2 prepared by TGM (January 2018);
 - An Infrastructure & Servicing Assessment prepared by TGM Group (October 2016);
 - Cultural Heritage Management Plan No.14185 prepared by Terra Culture (approved 10 January 2017);
 - A Significant Landscape Overlay Re-Assessment prepared by XUrban (Final – November 2016);
 - An arboricultural assessment of trees prepared by Galbraith & Associates dated 16 November 2018
 - A Vegetation Due Diligence Assessment and Biodiversity Assessment Report prepared by Mark Trengove Ecological Services (January 2018) and an update of November 2018;
 - An Environmental Assessment prepared by Environmental Site Assessments (undated); and
 - A Dam Break Assessment prepared by TGM Group (January 2018).

I have also:

- Reviewed and considered relevant parts of the Greater Geelong Planning Scheme, including relevant policies, zone and overlay provisions (including maps) and particular and general provisions.
- Reviewed and considered:
 - the *G21 Regional Growth Plan* (G21RGP) prepared by the Geelong Regional Alliance (2013);

- the *Bellarine Peninsula Localised Planning Statement* of September 2015;
 - the *Leopold Structure Plan* (LSP) prepared by the City of Greater Geelong (September 2011 and amended in January 2013);
 - the *South East Leopold Framework Plan* (SELFP) prepared for the City of Greater Geelong by Tract Consultants (2016);
 - The *City of Greater Geelong Settlement Strategy* of October 2018;
 - *Coastal Spaces Landscape Assessment Study* (Planisphere, 2006); and
 - *The Siting and Design Guidelines for Structures on the Victorian Coast* (Victorian Coastal Council, 1998).
- Inspected the land affected by the amendment and the surrounding areas.
 - Reviewed the Certificates of Title pertaining to the proponent's land and Lutheran Church owned land affected by the amendment.
 - Reviewed aerial photography of Leopold and its surrounding areas.
 - Reviewed and considered Council reports relating to the resolution to exhibit the amendment (dated 20 September 2017) and later, to the report of the delegate (dated 18 October 2018) to refer submissions to a Panel.
 - Reviewed and considered submissions about the amendment, including responses from statutory authorities.
 - Reviewed and considered the proponent's preferred Overall Development Plan – a TGM Drawing 15196-100 OPT Y Version Y and circulated to parties under cover of correspondence from Minter Ellison dated 16 November 2018, in response to Panel directions.
 - Reviewed and considered *Ministerial Direction No. 1* relating to Potentially Contaminated Land.
 - Reviewed and considered *Planning Practice Note 46* relating to *Ministerial Direction No. 11 – the Strategic Assessment Guidelines*.
 - Reviewed and considered *Planning Practice Note 78 – Applying the Residential Zones*.
 - Reviewed and considered the *Ministerial Direction on the Form and Content of Planning Schemes*.
 - Reviewed and considered the Urban Design Guidelines for Victoria.

This report is all my own work.

It proceeds based on my expertise in urban planning and heritage planning. Except where stated, the views expressed in my report are my own opinions and are not provisional opinions.

1.4 Summary of opinions

I consider that the combined amendment and subdivision application is a well-considered proposal that represents an appropriate and acceptable planning outcome from both strategic and statutory planning perspectives.

As a result of my review and consideration of the material listed in Section 1.3 of this report, I am satisfied that the proposed rezoning of the land and other related changes to the Planning Scheme have a strong strategic basis. Further, I am satisfied that the planned, conventional residential subdivision of the land to be permitted with rezoning has logically and sensibly taken account of the subject land's physical, natural and cultural characteristics and its setting more generally. I also consider that the draft permit is generally in order.

On this basis, I recommend to the Panel that the amendment and permit application can be supported.

2.0 The affected land and surrounding land

2.1 Where is the affected land?

The land affected by the amendment is in the south eastern corner of the town of Leopold which is located on the Bellarine Peninsula about 12 kilometres south east of Geelong.

2.1.1 What is the affected land?

The affected land has an irregular shape and comprises approximately 40 hectares made up of five separate lots as follows:

- 2-20 Mollers Lane;
- 22-30 Mollers Lane;
- 32 and 32A and 40 Mollers Lane (owned by the Lutheran Church);
- 42-90 Mollers Lane;
- 92-120 Mollers Lane; and
- 10 Willows Place (owned by others), Leopold.

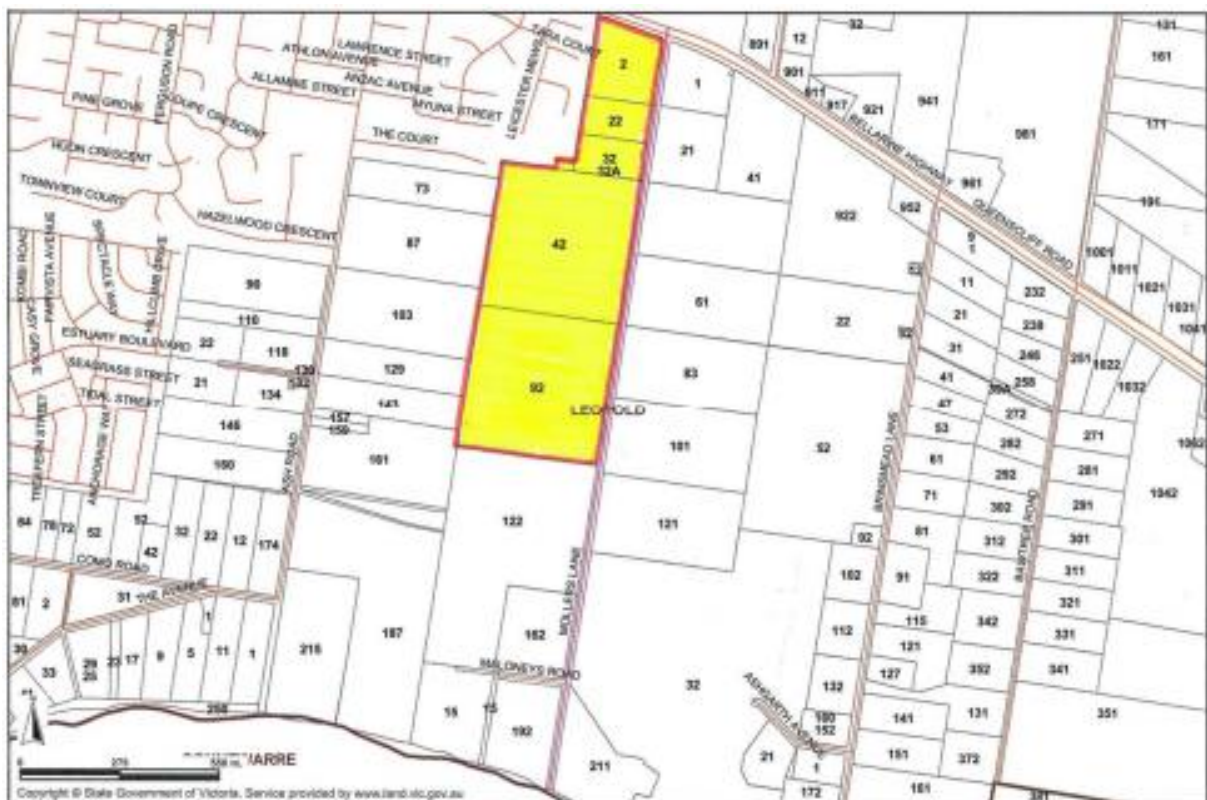


Figure 1 – Extent of land affected by the amendment (base plan extract from www.land.vic.gov.au)

Having inspected the affected land, I am satisfied that it is generally well-described in the TGM planning submission¹ as follows:

...generally undulating in nature with a fall from the northern boundary along the Bellarine Highway where the contours are relatively gentle, to the south where the land forms a series of hillocks that extend through the entire subject land and beyond to the shores of Lake Connewarre. Two major dams located at 40 Mollers Lane form a significant landscape feature along the natural drainage line that flows from the north-west to the southeast. A similar drainage line located to the south also flows through the subject land into the wider creek system to the east. This drainage line, like the one to the north, is degraded in nature and has a small dam located in the south eastern corner. Both tributaries flow into a broader creek network located to the east that ultimately flow into Lake Connewarre.

The majority of the land has been individually owned and used predominantly for agricultural purposes in the form of grazing and cropping and this is substantially cleared. However trees in the form of windrows and shelter belts located along boundaries and bisecting paddocks have been established to provide shade and wind breaks for farm animals and to provide privacy between allotments.

As the majority of the allotments have previously been individually owned and developed there are a number of dwellings and sheds that remain on the land. Land at 32 Mollers Lane is owned by the Lutheran Church and contains the Holy Trinity Leopold Lutheran Church which is a small single storey, pitched roof weatherboard building located at the rear of the site (approximately 150 metres from the road frontage) with a cleared car parking area in the front setback. This land also contains a number of communications towers located along the Mollers Lane frontage.

Land at 92 Mollers Lane contains the former Karingal Mollers Lane Plant Farm Nursery and rural workshop established in 1982/83. Known as Mollers Lane Industries, the site was abandoned due to transport costs and the operation was eventually relocated to Baxter Road in North Geelong however disused and dilapidated buildings and glasshouses still remain on-site.

The subject land adjoins the Bellarine Highway to the north which is a dual lane road with vegetated centre median strip and grassed verges. Mollers Lane is a formed gravel road with grassed verges.

It is observed that 2-20 Mollers Lane has a frontage to the Bellarine Highway of approximately 195 metres and that it, together with other affected lots, creates a combined frontage to Mollers Lane in the order of 1.2 kilometres.

Most of the affected land is located inside the settlement boundary documented in the *Leopold Structure Plan*. The southern-most 9.5 hectares (which represents approximately the southern half of the lot at 92-120 Mollers Lane) is beyond the settlement boundary documented in the *Leopold Structure Plan*.

Most of the affected land² is currently in a Farming Zone 1 and approximately one third of the land (southern parts) is affected by the Significant Landscape Overlay - Schedule 10 which relates to the Lake Connewarre Escarpment³.

¹ pp 9 & 10

² All but 10 Willows Place

³ Amendment C177 to the Greater Geelong Planning Scheme

2.1.2 Land at 10 Willows Place

The amendment also affects land at 10 Willows Place, Leopold, a larger than typical residential lot in an adjacent established residential subdivision but which is not owned or proposed to be owned by the proponent of the amendment. The land is in a General Residential Zone – Schedule 1.

Council has proposed the land be included in the amendment to enable any future subdivision of the land to be integrated with the proposed subdivision of the proponent's land.

2.2 The surrounding land

2.2.1 North

To the north is the Bellarine Highway which has been previously described. To the north side of the highway is land in the General Residential Zone - Schedule 1. It is substantially developed with conventional urban residential development. A Low Density Residential Zone - Schedule 1, is located to the east of the General Residential Zone and behind a Public Park and Recreation Zone which has frontage to the highway.

2.2.2 North-west

Neighbouring land to the north-west is zoned residential (a combination of Residential Growth Zone – Schedule 2 and General Residential Zone – Schedule 1). The land has been subdivided in a conventional manner and is substantially developed with mostly single storey, detached dwellings. Land to the west of 32A Mollers Lane has, as I have already explained, some, albeit limited, further development potential (10 Willows Place).

2.2.3 West

Neighbouring land to the west of 40-90 and 92-120 Mollers Lane has frontage to Ash Road (to the west). Like the affected land, it is undulating and comprises eight lots (73-161 Ash Road), in multiple ownership and all of which are in the Farming Zone – Schedule 1. This land is entirely within the settlement boundary documented in the *Leopold Structure Plan* and could legitimately be the subject of a request for an amendment to rezone it for future conventional residential development. So far as I am aware, a rezoning and subdivision proposition has yet not come forward to the planning authority.

Land at the western side of Ash Road has already been rezoned⁴ but subdivision of the land has not progressed.

2.2.4 South and East

Land to the south and east is also undulating but with some steeper slopes. It generally comprises larger lots in the Farming Zone - Schedule 1 and all are wholly beyond the town's settlement boundary document in the *Leopold Structure Plan*. Some lots host a dwelling, but mostly these lots are undeveloped. The southern reaches of the Farming Zone (which are about 900 metres south of the land affected by the proposed amendment), interface with Lake Connewarre which is in a Public Conservation and Resource Zone.

⁴ Amendment C280 to the Greater Geelong Planning Scheme

3.0 The planning proposal

Proposed Amendment C367 to the Greater Geelong Planning Scheme is a combined planning scheme amendment and planning permit application made pursuant to Section 96A of the *Planning and Environment Act 1987* (as amended).

3.1 The amendment

The amendment is proposed to facilitate subdivision of the proponent's land in anticipation of conventional residential use and development, inclusive of provision for public open space and infrastructure required to facilitate and service the subdivision.

In summary, the amendment proposes to:

- Update local planning policy at Clause 21.14 (The Bellarine Peninsula) of the Planning Scheme to support the land use recommendations set out in the *South East Leopold Framework Plan*.
- Rezone affected land that is currently in the Farming Zone - Schedule 1 to the General Residential Zone - Schedule 1.
- Remove the Significant Landscape Overlay - Schedule 10 as it currently affects parts of 42-90 Mollers Lane and 92-120 Mollers Lane, Leopold.
- Apply the Design and Development Overlay to all the affected land and introduce a new Schedule 43 to guide the future form and design of the subdivision of the affected land.

3.2 The planning permit

A draft planning permit has also been prepared which proposes to allow:

Staged multi-lot subdivision, removal of native vegetation, removal of easements⁵ and alteration of access and subdivision of land adjacent to a Road Zone Category 1.

It includes many conditions, including several conditions specifically required by referral authorities.

I do not describe the subdivision proposal in detail but, in summary, and by reference to the Subdivision Plans (TGM Group) and Landscape Plans (Mexted Rimmer) that supported the exhibition material, the proposal contemplates the creation of 494 residential lots of various size and equating to just under 14 lots per hectare (excluding land to be set aside for public open space). The proponent's preferred plan proposes 539 lots or around 14.5 lots per hectare.

⁵ E1 and R1 on LP74593, E1 and E2 on LP113935 and E2 on PC353398K

For the most part, the proposed subdivision is a regular one, designed around a drainage system (including a sewerage pumping station) and network of public open space that contemplates reinstatement and enhancement of two natural creek systems passing through the land in shallow valleys.

The plan proposes an internal hierarchy of tree-lined roads which recognise the location of Barwon Water's easement for the two Bellarine Water Transfer Main pipelines and foreshadows connections to Mollers Lane and the Ash Road land to the west. The plan also contemplates integration with the Bellarine Highway, with the intersection with Mollers Lane requiring some upgrading in the short term and, ultimately, requiring signalisation.

3.3 Draft s173 Agreement

A draft s173 Agreement has also been prepared.

In the absence of a Development Contributions Plan, the purpose of the agreement is to ensure that the developer of the subdivision contributes to the provision of infrastructure and that the nominated infrastructure projects are delivered in a timely manner.

If Amendment C367 is recommended for approval it is my expectation the agreement would be executed prior to the issue of the planning permit.

4.0 Assessment of the proposal

4.1 Strategic considerations

4.1.1 A sound strategic basis

The Minister's *Strategic Assessment Guidelines* expect that an amendment to a planning scheme has a sound basis and, preferably, that it has support in a strategic study or report. A sound basis for an amendment is the beginning of a process which is designed to realise an appropriate and acceptable planning outcome and a net community benefit.

I am satisfied that the amendment being considered by the Panel has a sound strategic basis based on the following:

- The Planning Scheme seeks to focus investment in places of state significance like Geelong and to ensure that the region and its settlements are planned in accordance with a relevant regional growth plan.
- The relevant regional growth plan for the Geelong Region is set out in the *G21 Regional Growth Plan* and is reinforced in the *Bellarine Peninsula Localised Planning Statement*. Both documents are listed as policy documents at Clause 11 of the Planning Policy Framework of the Scheme. Both documents speak to the managed expansion of the region's urban areas – a key tenant of which is the maintenance of non-urban breaks between settlements. Maintenance of these breaks will be achieved by directing growth to designated locations.
- Leopold is one of three Geelong region towns designated in these strategic planning policy documents as growth locations and, accordingly, growth in these locations is anticipated to proceed generally in accordance with relevant structure plans.
- This broader strategic plan for growth on the Bellarine Peninsula is reinforced in the Local Planning Policy Framework, in the Planning Scheme. Clause 21.14, for example, confirms that the Bellarine Peninsula is one of the fastest growing areas in the City of Greater Geelong. Appropriate management of urban growth is to be assisted by recognition that Leopold will be one of *three hubs of development and service provision*.
- A *Leopold Structure Plan* has been prepared and to the extent that it identifies areas for future urban growth, these areas were investigated and determined as being suitable for future urban growth. The *Leopold Structure Plan* was included in the Planning Scheme as a policy reference document by way of Amendment C254 and the Structure Plan map appears at Clause 21.14.
- Pertinent local strategies for growth at Clause 21.14-2 include:
 - *Ensure land use and development proceeds generally in accordance with the relevant Structure Plan maps included in this clause.*
 - *Ensure that development outside of settlement boundaries (as shown in Structure Plans maps included in this clause) does not compromise the rural, environmental and landscape values of the non-urban breaks.*

- *Direct the bulk of residential growth and retail development to Ocean Grove, Drysdale/Clifton Springs and Leopold consistent with the relevant Structure Plan maps included in this clause.*

Author's emphasis

- In relation to Leopold, specific strategies include:
 - *Ensure the retention of Leopold as an urban island – supporting urban growth contained to the settlement boundary and preserving the rural hinterland.*
 - *Support the development of the Ash Road Growth Area and other areas identified for residential development on the Structure Plan map.*
- Strategies of a more detailed nature and relating to Leopold include:
 - *Provide public open space within existing and proposed residential areas to cater for the passive and active recreation needs of the community.*
 - *Provide an improved transport network which includes better traffic movements, pedestrian and cyclist linkages and public transport.*
 - *Ensure environmentally sensitive areas including Lake Connewarre and Reedy Lake are protected from localised development pressure.*

4.1.2 The City of Greater Geelong Settlement Strategy

I have reviewed the recently adopted *City of Greater Geelong Settlement Strategy* of October 2018. I do not read or understand this strategy as substantially changing the planning framework for the Bellarine Peninsula. The strategy is explained as one that *aims to build on, and refine, what is already in place.*⁶

Having said this, it does foreshadow that there will be fewer new opportunities for development of peninsula towns. It explains that the City is confident, based on a 2.5% growth scenario, that there is sufficient land for residential growth and so will not be relying on the creation of *new areas for residential growth, beyond those already planned.*⁷

By foreshadowing that towns like Leopold will no longer be designated as growth towns (that is, beyond the growth opportunities already identified), growth further into the future will be directed to urban Geelong (as infill), Armstrong Creek and the Northern and Western Geelong Growth Areas. This will mean that the Bellarine Peninsula's share of Geelong region growth should decline over time.

4.1.3 Compatibility with the Planning Policy Framework

I have reviewed Victoria's Planning Policy Framework as set out at Clauses 11-19 and other policies in the Local Planning Framework and am satisfied that the amendment responds to many having greater relevance without offending or being in conflict with others.

⁶ *City of Greater Geelong Settlement Strategy* of October 2018, p5

⁷ *ibid*

I summarise the basis for this opinion as follows under policy headings set out in the planning scheme:

- Clause 11 – Settlement
 - The scheme anticipates and requires that planning authorities respond to the existing and future needs of the community, including one of the most fundamental needs – housing. It can do this by taking advantage of existing settlement patterns and investments already made in community infrastructure. While this proposal plans an expansion of a settlement boundary, it is a logical and sensible expansion adjacent to an existing settlement that is anticipated for growth.
 - The proposal does not threaten the desirability and importance of settlement town breaks to maintain their unique identities. The new eastern extent of the town would, I expect, be final based on the planning sensitivities further to the south and the more undulating and steeper topography of farming land east of Mollers Road. On the face of it, there is presently limited strategic support for rezoning further afield.
 - The proposal has had regard for character and landscape considerations and not exceeded the limits of the land’s capability to accommodate urban development. It has its basis in structure planning and detailed technical investigations.
 - It will allow the release of urban land in a timely fashion and in response to ongoing demand for housing on the Bellarine Peninsula. It will be released in advance of the Ash Road land to the west but has nevertheless been planned in anticipation of that land being advanced and released in the foreseeable future.
 - The proposal is responsive to coastal policies which aim to plan and manage population growth and in a way that is responsive to the natural (including geographic and physical) qualities of the landscape and, with sensibly planned provision for urban services, will ensure appropriate protection for the ocean, bay and estuaries.
 - The proposal is not threatening an important area for food production.
- Clause 13 – Environmental and Landscape Values
 - The proposal has taken account of the site’s environmental values and, in the context of broadly being identified and/or canvassed as suitable for residential development, will be restoring and enhancing the land’s shallow, natural valleys.
 - The proposal has considered the land’s its relationship with Lake Connewarre and its environs and considerable investigations have been undertaken to demonstrate that impacts on the lake and its environs will be minimised as a result of there being proper planning for urban services, including for management of stormwater.
 - While the proposed subdivision (and indeed any conventional urban subdivision and development) is anticipating the removal of trees, the investigations in this regard explain that none of this vegetation has a high level of significance (typically the contrary) or makes a meaningful contribution to the region’s biodiversity. Of course, the subdivision plans the restorative revegetation of the land’s natural drainage valleys and, I am instructed, the offsets calculated in respect of the land are already in the process of being costed and identified.
 - There is sound analysis to support the contraction of the area of environmental significance and with subdivision design and planning, I am confident that the environmental sensitivities and

recreational values of Lake Connewarre will be protected. This is discussed in more detail in a later section of this report.

- The proposal is not in an area (in the broad sense) that is considered at environmental risk. For example, it is not at particular risk of bushfire or flooding. There is no evidence of it being contaminated or prone to erosion, landslip, instability of other land degradation process. The land is also not subject to noise impacts which would affect future sensitive land uses.

- Clause 14 – Natural Resource Management
 - The proposed rezoning and subdivision are not threatening sustainable use of high value agricultural land or production. For the most part, the subdivision is proposed on land which has long been recognised as ultimately having an alternative land use future. In recent years its farming contribution has been limited at best. Sensibly, the proposal is planning the inclusion of the whole of 92-120 Mollers Lane so as not to “leave” a small remnant farming lot of limited agricultural utility.
 - Downstream impacts have been considered in the preparation of this proposal and relevant authorities are satisfied that the proposed subdivision can be serviced in a way that will not threaten the nearby waterbodies. Natural drainage function is recognised in the subdivision plan and these areas will be vegetated to provide wildlife corridors, restored landscape values and filtration for surface run-off.

- Clause 15 – Built Environment and Heritage
 - The subdivision seeks to promote a functional and quality urban environment that responds to the site and its context. It provides a range of lot sizes having potential to suit a variety of dwellings and household types and the needs and aspirations of different people looking for a lifestyle in a smaller regional town.
 - The subdivision has had regard for the *Urban Design Guidelines for Victoria*. The subdivision’s open space corridors encourage walking and cycling and passive recreation. These open spaces engage with a permeable and functional urban structure of blocks and streets.

- Clause 16 – Housing
 - The plan contemplates the “15 houses per hectare” efficiencies sought from contemporary residential subdivision as the overarching means of containing expansion of townships that is generated by population growth, and minimising housing costs.
 - Provision for infrastructure is proposed in the most efficient way possible; the servicing proposition has resulted from extensive investigations and communications with servicing authorities.

- Clause 17 – Economic Development
 - Increased housing growth will support the investment in Leopold’s existing town infrastructure, including the activity centre at the western edge of the centre on the Bellarine Highway.

- Clause 18 – Integrated Transport
 - To the extent reasonably anticipated for smaller regional towns, the proposed plan of subdivision has considered all modes of transport including, walking, cycling, public transport and private vehicles in providing access.
 - The planned road spaces complement the planned, conventional residential use and development of the land to meet community expectations.

- Clause 19 – Infrastructure
 - The planning authority has considered the matter of development contributions to fund service infrastructure and the basis for an agreement in respect of same has been exhibited with other material related to the amendment. I expect that it will need to be finalised sooner than later.
 - The subdivision proposal plans for the creation of new public open space. The proponent’s preferred plan contemplates the supply at just over 10%. It is planned to link and integrate with existing development and likely future urban development to the west. I consider the supply to be fair and equitable and make a positive contribution to the town’s wider network and supply (existing and future).
 - The provision of the subdivision’s infrastructure will be staged to ensure provision in a timely way that is efficient and cost effective and respectful of catchment context.

4.2 The amendment

4.2.1 A change of zone

I am satisfied that the majority of the affected land can be rezoned⁸ for future residential development because, in my opinion:

- Most of it is designated expressly for this purpose in the *Leopold Structure Plan*.
- There is sufficient flexibility in planning policy to rezone land beyond the settlement boundary of Leopold as a logical inclusion. Policy anticipates that there may be instances where this can be demonstrated as appropriate with its use of the term *generally in accordance* in Bellarine Peninsula policy.
- The *Leopold Structure Plan* (as amended in 2013), which is in the Planning Scheme, recognises that the present lot supply will accommodate modest future growth and anticipates a small number of locations will be rezoned to ensure adequate supply over the next 20 years. The Ash Road Area is identified as one of these areas.
- The appropriateness of the extension of what the *Structure Plan* refers to as the Ash Road Area, in a southerly direction and beyond the existing settlement boundary shown on the *Leopold Structure Plan* map at Clause 21.14, is canvassed in the more detailed *South East Leopold Framework Plan* – a plan which the Council commissioned to *guide subsequent rezoning and development processes*.

⁸ 10 Willows Place is already zoned General Residential – Schedule 1

- Sensibly, in my opinion, Council's framework has recognised that it is not good planning practice to identify only part of an existing lot as suitable for rezoning. In this instance, the obvious and undesirable ramification of a 'part lot approach' is a remnant and fragmented piece of farming land with an area of about 8 hectares; an area well below the minimum Farming Zone – Schedule 1 subdivision size of 30 hectares.
- From a very practical perspective, the Council's *South East Leopold Framework Plan* has also recognised that the benefit of including the whole of 92-120 Mollers Lane as, in topographical terms, it includes a natural drainage line which can usefully contribute to efficient, and planned, "gravity" servicing of the whole of the Ash Road Area, not just the Mollers Road land.
- It is also observed that the extension does not foreshadow future urban development being any closer to Lake Connewarre than is presently envisaged. The parts of the Ash Road Area to either side of Ash Road extend further south than is proposed for the Mollers Lane part of the area and the Mollers Lane land falls short of a natural ridge line that will ensure that future urban development on the proponent's land will not have visibility from Lake Connewarre when viewed from positions to the south.

I am also satisfied that the new zone proposed in the amendment is appropriate. I base this opinion on the following:

- The *Leopold Structure Plan* envisages that the Ash Road Area be rezoned to the Residential 1 Zone. The Residential 1 Zone, however, is no longer a zone in the Planning Scheme as it (and other residential zones) were replaced when new residential zones were introduced to the Planning Scheme in 2013. The General Residential Zone is the current translated equivalent and it is already widely applied in the Leopold urban area. The 10 Willows Place land, for example, is already in this zone.
- For completeness and having regard to *Planning Practice Note 78 – Applying the Residential Zones*, I am satisfied that there is no basis for a Neighbourhood Residential Zone and the Residential Growth Zone would similarly not be appropriate as the proponent's land does not have the typical characteristics indicated for increased housing activity.

4.2.2 Contracting the extent of Significant Landscape Overlay - Schedule 10

Schedule 10 to the Significant Landscape Overlay (SLO10) was introduced to the Planning Scheme by Amendment C177 approved in February 2011. It predates the *Leopold Structure Plan* (of September 2011 and amended in 2013). It affects about the southern third of the proponent's land.

The application of the overlay conflicts with the Geelong region's plan that designates Leopold as a town that will accommodate growth and, further, which specifically identifies south-east Leopold as suitable for future conventional residential development. In these circumstances, it is not unexpected that the *South East Leopold Framework Plan* explains that Council *was reviewing the application of the overlay in this location*.⁹

The *Leopold Structure Plan* recognises the potential for conflict and explains that a proposal for future development should have regard for it and foreshadows a robust landscape strategy informed by a landscape and visual assessment.

The proponent commissioned a review of the extent of Significant Landscape – Schedule 10 and whether, or not, it could be contracted and continue to protect views to and from the escarpment of Lake Connewarre.

9

The XUrban re-assessment of November 2016 concluded by reference to, and analysis of, the topographical features of the area near the affected land, that the extent of SLO10 could be contracted without comprising the locally significant views and vistas around Lake Connewarre.

I note, however that the extent of the contraction proposed in the amendment is greater than contemplated in the XUrban re-assessment which proposed that the contraction not include the bottom south-east corner of the affected land. In my opinion, the Council legitimately opted to delete the overlay from the whole of land consistent with good contemporary planning practice. Having said this, it is my view that the discrepancy can, in any event, be considered moot.

The south-east corner of the affected land is in a shallow valley and part of the second (and lower) natural drainage line passing through the affected land. While it is anticipated to be part of the future residential development facilitated by the proposed change of zone, I note that it will mostly not be developed with housing.

Instead, the TGM and Mexted Rimmer exhibited plans (and the proponent's preferred plans, explain this area as predominantly hosting a new drainage basin established in a restored, informal landscape setting which will be part of the subdivision's open space network. Importantly, the XUrban material also explains that there is a ridgeline further south of this area which will effectively block views to this area from Lake Connewarre. For these reasons, I am satisfied that the contraction discrepancy is not significant and that the Significant Landscape Overlay can be removed from the whole of the affected land to facilitate the growth envisaged by the *Leopold Structure Plan* and generally in the form envisaged by the *South East Leopold Structure Plan*.

4.2.3 Creating a new Schedule 43 to the Design and Development Overlay

The *Leopold Structure Plan* foreshadows¹⁰, in addition to rezoning land, that

a Development Plan Overlay (or similar mechanism) based on the principles identified in the Structure Plan to those areas identified on the Structure Plan map as appropriate for residential development.

A Development Plan Overlay (DPO) is a tool which Council has used in Leopold – specifically, in relation to a rezoning of land to the west of Ash Road. It is a tool which effectively describes an intermediate process that bridges the rezoning of the land and a permit for subdivision and development of land.

The Development Plan Overlay typically requires the preparation of a development plan (which needs to be prepared to take account of specified requirements in a schedule) before the construction of a building or works or subdivision and needs to be to the satisfaction of the responsible authority.

When approved, permit applications brought forward to the responsible authority, and considered to be *generally in accordance* with an approved development plan, have the benefit of exemption from notification and review.

In this instance, however, the *South East Leopold Framework* has ostensibly “done the work” anticipated by a DPO and, in this instance, provided the basis for the proponents to bring forward a suitably resolved plan of subdivision as an application for permit pursuant to Section 96A of the *Planning and Environment Act 1987*.

The Panel will appreciate that the proponents have invested heavily in a comprehensive range of technical and other investigations which have confirmed the essence of the framework and enabled it to be fine-tuned.

¹⁰ Leopold Structure Plan, Part B Implementation and Review, p.7

The subdivision plan has been the subject of exhibition with statutory authorities and third parties having the opportunity to comment on the plan and contribute to conditions in the draft permit.

In this case, I am satisfied that a co-operative, small group of landowners is likely to act on the permit in the years ahead but, I agree with the planning authority when it asserts that this is by no means certain. In these circumstances, there should be a control mechanism which provides some degree of certainty about a future subdivision of the land in the event the permit is not acted on or expires.

With the benefit of the *South East Leopold Framework Plan* referenced in policy, I consider the Design and Development Overlay is a suitably effective tool, in the circumstances of this amendment. Schedule 43, as planned to affect the affected land, including 10 Willow Place, includes design objectives (at Clause 1.0 of the exhibited schedule) and multiple specific requirements (at Clause 3.0), sensibly grouped under subheadings, for an application to subdivide land.

It is noted that proposed new Schedule 43 would not exempt an alternative subdivision application from notification and review.

Finally, I consider the drafting of the new Schedule to be generally in order but question:

- the appropriateness of including an open space requirement which is already set out at Clause 53.01 of the Scheme; and
- the proposition that there be two parks in the subdivision which are ultimately the features which increase the open space provision to well beyond the 10% requirement set out at Clause 53.01.

4.2.4 A change to local policy at Clause 22.14 - The Bellarine Peninsula

The Greater Geelong Planning Scheme clearly articulates the growth plan for the region and the Bellarine Peninsula more specifically. It is a growth plan that is consistently explained in all referenced policy documents.

Clause 22.14 of the Scheme, and the *Leopold Structure Plan* described in it, also makes it clear that the south eastern part of Leopold will host most of the area's new housing. Other possible opportunities to the north and west were effectively ruled out due to their low-lying topography and the consequential difficulties and relative expense associated with suitable and effective drainage.

Strong, existing strategic foundations in the Planning Scheme mean that the amendment requires only a very modest degree of change to the policy component of the Scheme; a change which will make clear that future urban development can extend beyond the existing Leopold settlement boundary as it is defined by the Ash Road Area (referred to in the *Leopold Structure Plan*) but only to the extent explained in the *South East Leopold Framework Plan*.

Specifically, four changes to policy are proposed. These are:

- Strategies presently listed as being part of Clause 21.14-2 will be attributed a new and separate clause number – Clause 21.14-3.
- The introduction of one, new strategy for Leopold at the new Clause 21.14-2 which will formally include reference to the Council's *South East Leopold Framework Plan* which has effectively progressed implementation of the *Leopold Structure Plan* and, significantly, recognised the benefits of including all the land at 92-120 Mollers Lane in the Ash Road (Growth) Area.
- The renumbering of subsequent clauses.

- The introduction of the *South East Leopold Framework Plan* to the References at the end of what will become Clause 21.14-4.

These are simple, purposeful and constructive additions to policy which, in drafting terms, are consistent with the *Form and Content of Planning Schemes* and the two changes of substance will, in my opinion, remove any doubt as to the policy support for the whole of the affected land being suited to future, conventional residential development.

4.3 The subdivision proposal

It is readily observable on review of the proponent's plan for subdivision of the land, as represented in the TGM and Mexted Rimmer plans, that it has regard for the *South East Leopold Framework Plan*.

I am of the opinion that the subdivision proposal represents an orderly and integrated residential development of the area. Its key features are:

- Removal of all native vegetation based on it being a small amount and in degraded condition. Offsets will be required, and I am instructed that TGM has already made an application for them.
- Removal of all introduced vegetation based on it having a low arboricultural value.
- The planned incorporation and upgrade of the two natural drainage lines passing through the land to manage stormwater run-off (including in the 1 in 100 flood event) and which includes the construction of two new retarding basins.
- Development of the land to either side of the drainage lines and other adjacent areas as part of the town's passive and active open space network.
- Two east-west connector roads which can be integrated with the balance of the Ash Road Area to the west and which would be suitable as future public transport routes.
- A typically orthogonal lot pattern proposing a variety of lot sizes and yield at approximately 14 lots per hectare, which is of the order anticipated by local policy for the development of new urban growth areas at Clause 21.06.2.

I note that the exhibited plan proposes in the order of 17% of the land (unencumbered) for open space purposes which is significantly more than the 10% nominated as required at Clause 53.01 of the Scheme.

The proponent's preferred plan proposes 10% (unencumbered) in accordance with the requirements of the planning scheme and there is no justification, in my opinion, for it being required at a percentage higher than would typically apply.

4.3.1 Clause 56

The proponent has provided a Clause 56 assessment and I have reviewed it. I am satisfied that the proposal has been designed in accordance with its objectives and, in most instances, the standard applicable to the objective is achieved. There are some cases where the standard cannot be met due to the location of the subdivision being in a district town.

In summary, there is:

- variety in lot size to meet policy expectations and anticipated market needs. In this regard, I note that the proponent's preferred plan includes a greater number of lots and an additional medium density housing lot;
- good orientation for lots;
- a hierarchy of landscaped streets;
- the opportunity for integration with land to the west;

- a network of public spaces that engages with roads and streets to ensure good public surveillance;
- a network of pedestrian paths, including provision for shared paths; and
- provision of urban services.

4.3.2 Permit and conditions

Taking account of the amendment, and the extent to which it will change planning controls affecting the proponent's land, I am satisfied that the permit correctly addresses the affected land and encapsulates the necessary permissions.

I am also satisfied that the permit includes a range of conditions which I consider quite typical for subdivision, including conditions expressly required in this instance, or otherwise normally required by statutory authorities. While this is the case, I recommend several changes which I outline below:

- **Garden Area Requirement**

Condition 4 - This condition should be deleted as it is unnecessary and repeats a mandatory requirement set out at Clause 32.08-4 of the General Residential Zone. Building regulations have also been amended to address this issue, noting that Regulation 76A came into operation on 10 July 2018.

- **Corangamite Catchment Management Authority Conditions**

In the first line of Condition 5, the word "is" should be inserted between the words "safety" and "achieved".

- **Engineering Plans Required**

For clarity the Infrastructure Design Manual referred to in lines 7 and 8 of Condition 10 should be identified as a City of Greater Geelong manual.

- **Construction Environmental Management Plan**

Condition 13 a) should be removed as it is not envisaged that any vegetation at the site be retained.

- **Construction of Roadworks / Drainage**

For clarity the reference to Urban Stormwater – Best Practice Environmental Guidelines at Condition 24 should be identified as a Victorian Stormwater Committee document.

- **Environmental Audit**

Based on the environmental assessment completed by Environmental Site Assessments there is no basis for this condition.

- **Open Space, Streetscape and Vegetation Provisions**

A condition should be introduced to require 10% of the site area to be set aside for public open space with the following conditions subsequently re-numbered.

Condition 40 requiring a Tree Retention and Removal Plan should be deleted as it is not envisaged that any vegetation at the site be retained. The vegetation which the responsible authority seeks to

retain near to the western boundary in the northwest corner of the site has been assessed by Mr Galbraith has having very low retention value.

Condition 41 should be removed for the same reason.

References to the Mexted Rimmer plans at Condition 42 may need to be revised depending on the subdivision plan that is recommended for adoption and, in due course, approval.

- **Vegetation Protection and Removal**

Condition 66 would benefit from redrafting to clarify intentions.

Condition 67 should be deleted. Investigations in respect of the Growling Grass Frog have already been completed and it was concluded that there was no evidence that the frog inhabits the proponents land, or the dams more specifically.

- **VicRoads**

Condition 107 should be amended to reflect VicRoads' revised position in respect of the timing of the signalisation of the Bellarine Highway and Mollers Lane.

- **Other comments**

All notes should be removed from the permit or, as appropriate, formulated as conditions of the permit. To the extent that Council consider notes useful or of assistance they would be more appropriately included in covering correspondence to the proponent at the time the permit issues.

- There should be a final review to correct spelling and several punctuation errors and pagination to assist a reading and understanding of the permit.

4.3.3 The draft s173 Agreement

In the absence of a Development Contributions Plan, it is appropriate that there be an agreement to secure landowner obligations in relation to the provision of subdivision infrastructure. The principles embodied in the agreement are supported but I question to the utility of very specific plan details being listed in the Table to Schedule 3.

The draft permit includes many detailed conditions which will determine the final form of the subdivision and it should be anticipated that as the subdivision moves into the next stages of planning and design that there will likely be changes to it. These could be changes proposed by the applicant or changes which fall out of the process of plans ultimately needing to be to satisfaction of the Council. They are typically changes which would be proposed and considered pursuant to Condition 2 of the permit.

In anticipation of possible (and, indeed, likely) changes to the subdivision plan pursuant to Condition 2, I recommend that the very specific references to plans in Schedule 3 not be so detailed that they inevitably trigger future updates to the agreement. I consider such updates should be unnecessary given the assurances that Council has with the permit.

Finally, I note that the Schedule will also need to be updated to reflect what I understand to be VicRoads' revised position on the timing for the upgrade of the intersection of Mollers Lane and the Bellarine Highway.

5.0 Referral Responses and Submissions

5.1 Responses from Statutory Authorities

Responses to the amendment were received from:

- Transport for Victoria & VicRoads
- DELWP's Barwon South West Region & Parks Victoria
- Barwon Water
- The Environment Protection Authority's (EPA Victoria) South West Region

None of these authorities opposed the amendment and, for the most part, the conditions sought by authorities have in one way, or another, been addressed in permit conditions discussed in the preceding section of this report.

It is noted that most of the authorities are not pursuing their interest in the Amendment. Transport for Victoria (VicRoads) maintains an interest in the amendment and, in particular, in relation to the upgrade of the intersection of the Mollers Lane with the Bellarine Highway.

5.2 Submissions

A review of submissions reveals a combination of support and opposition.

To the extent that they proffer opposition to the proposal or preferences for changes to the amendment, I consider that the concerns can be summarised and grouped into the following issues:

- Downstream effects of stormwater runoff from urban style development
- Potential environmental impacts on Lake Connewarre
- Increased traffic and safety issues on Mollers Lane south of the affected land
- Increased potential for conflict during duck hunting season
- Diversity of lots and neighbourhood character
- The use of the Design and Development Overlay
- Vegetation removal and retention
- Road, drainage and open space contributions
- Supply and status of public open space

A number of these matters are not within my area of expertise but, where they are, I have already set out my opinions about these matters in preceding sections of this report.

6.0 Conclusions

Having reviewed a comprehensive range of material relating to the planning proposal being considered by the Panel, I am satisfied that the amendment and subdivision application is a well-considered proposal that represents an appropriate and acceptable planning outcome from both strategic and statutory planning perspectives, with community benefit. It provides the opportunity for more housing; housing which is needed in the Geelong Region based on documented expectations in respect of population growth. It is in a part of Leopold best suited to this purpose.

I am satisfied that the proposed rezoning of the land and other related changes to the Planning Scheme have a strong strategic basis. This proposition is borne out by the relatively modest degree of change planned to the scheme. Further, I am satisfied that:

- the planned, conventional residential subdivision of the land to be permitted with rezoning has logically and sensibly taken account of the subject land's physical, natural and cultural characteristics and its setting more generally.
- the draft permit is generally in order but can be improved.
- the principle of a s173 agreement is supported noting that its final form would benefit from being less specific in relation to the plans referred to in the draft Table to Schedule 3.

Declaration

In coming to these conclusions, I have made all the inquiries that I believe are desirable and appropriate and no matters of significance which I regard as relevant have, to my knowledge, been withheld from the Panel.



Amanda Ring
BTRP MVEPLA
SJB Planning

23 November 2018